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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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John F. Acres

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EXAMINER

DEODHAR, OMKAR A

ART UNIT

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3714

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/558,933	<b>Applicant(s)</b> ACRES, JOHN F.	
	<b>Examiner</b> OMKAR A. DEODHAR	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 02 March 2009.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 22, 24-27, 29-31, 33 and 34 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 22, 24-27, 29-31, 33, 34 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **Non-Final Rejection**

#### ***Response to Arguments & Amendment***

The crux of Applicant's argument is that the prior art fails to teach determining one or more regions of the game image that are unimportant to game play. In support of this argument, Applicant alleges that Aoshima's game advice message shown in Figure 9 fails to block the enemy target by chance & not due to a determination step as recited in the claims. Examiner respectfully disagrees. Aoshima's Figure 9 shows an arrow 90 associated with the advice message & pointing towards an enemy target on the radar. The advice message is displayed such that the enemy target is visible. Clearly, the enemy target on the radar is a region important to game play & the location of the advice message is a less important region. If the advice message was determined purely by chance as Applicant appears to be suggesting, the advice message & arrow 90 could block the enemy target & thus eviscerating the advice message's very purpose. Therefore, Applicant's arguments are unpersuasive.

Applicant's amendment regarding the player tracking image is moot in view of the new grounds of rejection & is addressed below.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22, 27 & 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. These claims require determining regions of a game image that are unimportant to game play, wherein such a region is a portion of the game image that if overlaid would not interfere with game play. Examiner has repeatedly explained that unimportant/important regions & interfering with game play are subjective terms. What one player may consider interfering with game play, another player may not consider interfering with game play. Likewise, a region one player may deem important to game play, another player may deem unimportant to game play. Thus, without a definition that clarifies the scope of the terms "important" or "unimportant" the claims are indefinite. Applicant is respectfully requested make appropriate correction.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 22, 24-27, 29-31, 33 & 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wynn et al. (US 5,971,271, hereafter: Wynn) in view of Aoshima et al. (US 6,241,524, hereafter: Aoshima), in yet further view of Walker (US 5,909,486).**

**Claims 22, 27 & 31:**

Wynn discloses a gaming device in which tracking information and game images are simultaneously displayed on the same display, (Figure 19 shows a concierge tracking image displayed simultaneously with game images on the same display).

Wynn further teaches a player tracking input device, (Figure 7 shows a card reader); communications interface to provide player information to a host machine, (Figure 7 shows communication via fiber optic signal between a player tracking device and a slot marketing system coupled to a customer database); a display device, (Abstract); Game electronics configured to provide game images and output information, (Figure 3 is one of many figures that shows various game electronics disclosed by Wynn);

Figure 17 discloses that prior to sending a message stream (video, audio, image, or a combination thereof) to a player at a gaming machine, the machine must not be in use. This teaches that if a player is in the middle of game play, the message will be postponed, or not sent at all, so as to not interfere with the game. If a player is in the middle of a game, then the entire game region is important and a message stream shall not be sent. Conversely, if a player is not in the middle of a game, then the entire game region is essentially unimportant, and a message stream may be sent.

Wynn's tracking image shown in Figure 19 is embedded, or part of the overall game image.

**Wynn does not teach displaying information or an image (as in a player tracking image) that when overlaid on the screen does not interfere with a game image and determining regions of the game image that are unimportant to game play.**

In a related invention, Aoshima teaches a transparent message window (80) that does not interfere with a game image. Since Aoshima teaches a game image with multiple regions & displays a message that does not block the enemy target aimed at (Figure 9), Aoshima teaches determining regions that are unimportant to game play. The region with the enemy target is important to game play & is not blocked by the message. If the advice message was determined purely by chance as Applicant appears to be suggesting, the advice message & arrow 90 could block the enemy target & this would eviscerate the advice message's very purpose.

Thus, Aoshima teaches the concept of displaying game data on the game screen without interfering with the actual game image. See Aoshima, Figure 9, Col. 9: Lines 65-67 & Col. 10: Lines 1-9. Note that player tracking data is a form of game data.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Wynn such that a player tracking image could be displayed in a manner so as to not block out (or interfere) with the image shown on the game screen, as taught by Aoshima. This is considered a substitution of known elements with the predictable results of conveying game information without interfering

with a game display (note, these predictable results are acknowledged by Aoshima in the cited portions.)

**Regarding the amended claim limitation "wherein the player tracking information image includes one or more items selected from the group consisting of a player name, player ID, point data, progressive data, extra credit data, bonus data, loyalty data & award data,"** Wynn teaches displaying player tracking data on a card reader display as in Figure 7, Item 24, but Wynn does not explicitly teach displaying player tracking data on the gaming machine display. While it could be argued that the gaming machine display is inherently capable of displaying the player tracking data to the player, Examiner relies on Walker for teaching this feature.

Walker teaches a membership card for slot machine play as part of an incentive award program. See Walker, Abstract. Walker's Figure 4, Steps S406 & S407 shows adjusting a player account by adding points & transmitting player points to the slot machine for display to the player. This teaches displaying player tracking data on the slot machine's display. Furthermore, since the information is displayed on the slot machine display, it is interpreted as an image.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to display player tracking points on a gaming machine display as taught by Walker, in the system of Wynn in view of Aoshima. Given that Wynn teaches displaying player tracking points on a card reader display, displaying these points on Wynn's gaming machine display performs equally well & yields predictable results. Therefore, this is viewed as a substitution of known elements with predictable results.

Wynn discloses usage of commercially available hardware including a video overlay card, (Please refer to the table of components in Col. 12.) A video overlay card is listed as one of the preferred components used in the system. A specific manufacturer and model number are disclosed. This emphasizes the video overlay card's integral role in the system. It must also be understood that individual components (video overlay card, player tracking card reader, video interface module, etc.,) comprise a larger gaming system; thus each component is needed for providing the gaming experience. The video overlay card and display must be coupled with the game electronics. If they were not coupled to the game electronics, the system would not work.

**Claims 24-26, 29, 30, 33 & 34:**

The combination in view of Walker as presented above teaches displaying player tracking information directly on the gaming machine display. Note that Wynn teaches tracking information including player ID, (Figure 7 & Col. 6. Lines 5-12), animated graphics, (Col. 8. Lines 34-55 discloses a concierge appearing with the game image to congratulate a player), game images including reels, (reels are inherent to slot machines), and a card reader, (Figure 7).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMKAR A. DEODHAR whose telephone number is (571)272-1647. The examiner can normally be reached on M-F: 8AM - 4:30 PM.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMES S. MCCLELLAN/  
Primary Examiner, Art Unit 3714

/OAD/